

REMARKS

Claims 1 – 14 were pending in this application.

Claims 1 - 14 were rejected.

Claim 7 was amended.

L. 35 USC 102(e) Rejections

Claims 1- 14 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,615,191 to Seeley.

The rejected claims include three independent claims, which are Claim 1, Claim 7 and Claim 11. These claims are believed to be clearly distinguishable over the cited prior art references, as is explained below.

Claim 1

Claim 1 sets forth a method of permitting only authorized users to use an automated vending machine. This allows regulated products, such as tobacco, alcohol and adult products to be safely sold from vending machines, without concern of purchases by minors.

The claimed method includes providing authorized users with identification cards. Each identification card contains a digital data code corresponding both to the identity of the authorized user and a biometric characteristic of the authorized user. Vending machines are provided that contain both an identification card reading device and a biometric characteristic scanner. The vending machine reads the digital data code from an identification card inserted into the identification card reading device on the vending machine. The vending machine also scans an actual biometric characteristic directly from the potential user using the biometric characteristic scanner on the vending machine.

Once the vending machine has both read the data from the identification card and has read an actual biometric characteristic from the potential user, the information is compared. The vending machine is enabled if the actual biometric characteristic of the potential user matches the digital data code of a biometric characteristic contained on the identification card.

The Seeley patent is entitled “*Software Licensing And Distribution Systems And Methods Employing Biometric Sample Authorization*”. The Seeley patent discloses a methodology for licensing software and ensuring that the person using the software is the same person who licensed the software.

The Seeley patent disclosure contains many of the same terms as are used in the present invention application. The Seeley patent therefore would seem to match the present invention using conventional EAST search protocols. However, when the passages of the Seeley patent are read in context, it is clear that the Seeley patent does not disclose or suggest the matter of the present invention.

The Seeley patent discloses a method of licensing software. The Seeley patent does disclose that the software can be downloaded, sold from a retainer or sold from a vending machine. The Seeley patent also discloses that in order to buy the software, the user must register some biometric identification parameter. Consequently, at the point of purchase, a person must either be scanned or present a smart card that already contains information of a biometric identification. See Seeley Column 5, lines 55-60.

Once a customer is scanned, that biometric information is stored in a “biometric information storage”. See Seeley column 6, lines 38-40. The customer can then take the licensed

software. When the customer runs the software, the customer again is scanned for a biometric parameter at the point where the software is being used. If the user scan matches the purchaser scan, the software will run since it is being used by an authorized user.

Although similarities exist between the Seeley methodology and that of the present invention, large distinguishing differences are clear. As compared specifically to the wording of Claim 1, the present invention sets forth a method of permitting only authorized users to use an automated vending machine. See preamble of Claim 1.

The Seeley patent allows anyone to buy software from a vending machine. The vending machine works for anyone with money. The Seeley patent only address the use of the software by authorized people after it is purchased from a vending machine and taken home.

Claim 1 of the present invention sets forth a vending machine that :

1. reads a digital data code from an identification card;
2. scans actual biometric characteristics directly from a person using the vending; and
3. compares the actual biometric characteristic to the digital data code contained on the identification card, before enabling the vending machine.

The Seeley patent does not use these method steps. In the Seeley patent, a vending machine registers a user by either reading a biometric characteristic from an identification card **OR** scanning an actual biometric characteristic from a person using the vending machine. The vending machine referenced in the Seeley patent only wants to register a biometric characteristic of the person purchasing the software from a vending machine. The Seeley patent does not attempt to verify that biometric characteristic until a user takes the software home and attempts to

use the software.

In fact, the vending machine referenced in the Seeley patent will sell the software without any registration of a biometric characteristic. However, more money is charged for the software. This is a key feature of the Seeley patent as evidenced by the first paragraph of Claim 1 is the Seeley patent, which states:

“presenting a selection of payment choices including at least one choice involving access based on biometric identification and at least one choice involving access without biometric identification;”

It will therefore be understood that the Seeley patent does not disclose a system or method where a vending machine is enabled only if an actual biometric characteristic of a potential user matches the digital data code of a biometric characteristic contained on an identification card read by the vending machine.

Since the method step of comparing data to enable the vending machine is specifically set forth in Claim 1 and is not disclosed in the Seeley patent, it is clear that the Seeley patent does not anticipate the matter of Claim 1.

It is therefore believed that the matter of Claim 1 is distinguishable over the Seeley patent. The Examiner is therefore respectfully requested to withdraw the 35 USC 102 rejection as applied to Claim 1 and its dependent claims.

Claim 7

Claim 7 sets forth a vending machine for vending regulated products. The vending machine has both an identification card reader for reading an identification card, and a biometric characteristic scanner for reading actual biometric characteristic data from a person standing in front of the vending machine.

The vending machine vends the regulated products only after a proper fee has been deposited and data read from the identification card is matched to the actual biometric characteristic data read by said biometric characteristic scanner.

As has been previously mentioned, the Seeley patent does not disclose a vending machine that is enabled or disabled. In the Seeley patent, the reference vending machine will vend to anyone who pays. The vending price is cheaper if you register a biometric characteristic. But the vending machine is always operational.

The present invention claims a vending machine that can only be enabled upon the comparing of a data card to an actual biometric scan performed at the vending machine. Since such a vending machine is not disclosed in the Seeley patent, the Seeley patent fails to disclose the matter contained in Claim 7.

It is therefore believed that the matter of Claim 7 is distinguishable over the Hurd patent. The Examiner is therefore respectfully requested to withdraw the 35 USC 102 rejection as applied to Claim 7 and its dependent claims.

Claim 11

Claim 11 sets forth a vending system. The vending system includes at least one vending machine having a card reader for reading identification cards and a biometric characteristic

scanner for ascertaining an actual biometric characteristic of a person using the vending machine. The vending machine compares the actual biometric characteristic of the person using the vending machine to a digital data code on the identification card and vends product only when there is a match.

As has been previously mentioned, the Seeley patent does not disclose a vending machine that is enabled or disabled. In the Seeley patent, the reference vending machine will vend to anyone who pays. The vending price is cheaper if you register a biometric characteristic. But the vending machine is always operational.

The present invention claims a vending machine that can only be enabled upon the comparing of a data card to an actual biometric scan performed at the vending machine. Since such a vending machine is not disclosed in the Seeley patent, the Seeley patent fails to disclose the matter contained in Claim 7.

It is therefore believed that the matter of Claim 7 is distinguishable over the Hurd patent. The Examiner is therefore respectfully requested to withdraw the 35 USC 102 rejection as applied to Claim 7 and its dependent claims.

II. DRAWINGS

The drawings of the initial filing were informal.. Formal drawings will be filed upon receipt of the Notice of Allowance for this application.

III. SUMMARY

Having fully distinguished the pending claims over the cited art, this application is believed to stand in condition for allowance. However, if the Examiner is of the opinion that

such action cannot be taken, the Examiner is requested to call the applicant's attorney at (215) 321-6772 in order that any outstanding issues may be resolved without the necessity of issuing a further Office Action.

Respectfully Submitted,



Eric A. LaMorte
Reg. No. 34,653
Attorney For Applicant

LaMorte & Associates
P.O. BOX 434
Yardley, PA 19067
(215) 321-6772